

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JEROME ZEIDMAN,

Plaintiff,

v.

U.S. POST OFFICE,

Defendant.

) CASE NO.:

05 - 10670 EFH

MAGISTRATE JUDGE V. Mag

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Defendant U.S. Post Office, ("USPS") by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby files this notice of removal, and as grounds for such removal states as follows:

1. The "U.S. Post Office" is named as a defendant in the action styled Jerome Zeidman v. U.S. Post Office, Docket No.0531 SC 258, now pending in the Trial Court of Massachusetts, Small Claims Session, Taunton Division;
2. In that action, plaintiff makes allegations that a package was never delivered to plaintiff. Pursuant to 28 U.S.C. § 2679, plaintiff's exclusive remedy for injury arising from the alleged negligent acts of an employee of the United States is a suit against the United States under the provisions of the Federal Tort Claims Act.
3. If filed in a state court, such actions are removable to United States District Court at any time before trial. 28 U.S.C. § 2679. This action is therefore removable to this Court.
4. No previous application for removal of this action has been made.

5. A copy of all pleadings filed in the Taunton Division of the District Court are attached hereto.

WHEREFORE defendant USPS prays that this action be entered upon the docket of this Court and, upon filing a copy of this Notice with the Clerk of the Trial Court of Massachusetts, Small Claims Session, Taunton Division District Court, and that division shall proceed no further.

Respectfully submitted,

By their attorney,

MICHAEL J. SULLIVAN  
United States Attorney

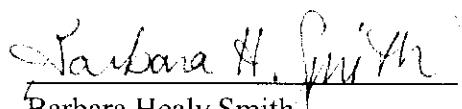
By:   
Barbara Healy Smith  
Assistant U.S. Attorney  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3263

Dated: 4/5/05

**CERTIFICATE OF SERVICE**

This is to certify that I have this 5th day of April 2005, served upon the persons listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Jerome Zeidman, pro se  
27 Walden Drive  
S. Easton, MA 02375

  
Barbara Healy Smith  
Assistant United States Attorney

<b>STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL</b>		<b>For Court Use Only.</b>	<b>DOCKET NO.</b>	<b>The Court of Massachusetts Small Claims Session</b>	
<b>PART 1</b>	<input type="checkbox"/> <b>BOSTON MUNICIPAL COURT</b>	<input type="checkbox"/> <b>DISTRICT COURT</b>	<input type="checkbox"/> <b>HOUSING COURT</b>		
		<b>TAUNTON</b>	<b>Division</b>	<b>Division</b>	
<b>PART 2</b>	<b>PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE</b>		<b>PLAINTIFF'S ATTORNEY (if any)</b>		
	<b>JEROME ZEIDMAN 27 WALDEN DR. S. EASTON MASS 02375</b>		Name: _____	Address: _____ <b>PRO SE</b>	
<b>PART 3</b>	<b>PHONE NO:</b> <b>508-230-8475</b>		<b>PHONE NO:</b>		
	<b>DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE</b>		<b>ADDITIONAL DEFENDANT (if any)</b>		
<b>PART 4</b>	<b>U.S. Post Office 704 WASHINGTON ST S. EASTON MA. 02375</b>		Name: _____ <b>655-7802/28/05 SMALL CLAIM</b>	Address: _____ <b>655-7802/29/05 SUPERIOR</b>	
	<b>PHONE NO:</b> <b>508-275-8777</b>		<b>PHONE NO:</b>		
<b>PLAINTIFF'S CLAIM.</b> The defendant owes \$ <b>89</b> plus \$ <b>36</b> court costs for the following reasons: <b>Give the date of the event that is the basis of your claim.</b> <b>THE POST OFFICE CLAIMS THEY DELIVERED A PACKAGE AND LEFT IT AT MY FRONT DOOR. I NEVER RECEIVED THIS PACKAGE. THE DRIVER SCANNED THE TICKET WHEN SHE LEFT THE PACKAGE. WE DID NOT SIGN ANYTHING. THIS WAS A SUBSTITUTE DRIVER AND FEEL SHE LEFT THE PACKAGE SOMEWHERE ELSE.</b>					
<b>PART 5</b>	<b>SIGNATURE OF PLAINTIFF</b> <i>Jerome Zeidman</i>				
	<b>MEDIATION:</b> Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date.				
<input type="checkbox"/> The plaintiff is willing to attempt to settle this claim through court mediation.					
<b>PART 6</b>	<b>MILITARY AFFIDAVIT:</b> The plaintiff states under the pains and penalties of perjury that the:				
	<input checked="" type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address.	<input type="checkbox"/> above defendant(s) is (are) serving in the military			
<b>PART 7</b>	<b>NOTICE TO DEFENDANT:</b> You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right. If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney.		<b>NAME AND ADDRESS OF COURT</b> <b>Taunton District Court 15 Court St. Taunton, MA 02780 508-24-4031</b>		<b>BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED</b>
	SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM		<b>DATE AND TIME OF TRIAL</b> <b>4/27/05 AT 10:00 AM</b>	<b>TIME</b> <i>Open</i>	<b>ROOM NO.</b>
<b>FIRST JUSTICE</b>	<b>CLERK-MAGISTRATE OR DESIGNEE</b>				

**INSTRUCTIONS FOR FILING A SMALL CLAIM — You must complete Parts 1-6 of this form. See instructions on reverse.**

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Jerome Zeidman

(b) County of Residence of First Listed Plaintiff Bristol  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jerome Zeidman, pro se  
27 Walden Drive, S. Easton, MA 508-230-8475**DEFENDANTS**

U.S. Post Office

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

Barbara Healy Smith, AUSA, One Courthouse Way, Ste. 9200  
Boston, MA 02110 (617)748-3100**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF
<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 420 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (1395ft)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<b>LABOR</b>	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b>		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act		<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 740 Railway Labor Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 444 Welfare			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 440 Other Civil Rights			

**V. ORIGIN**

(Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC Sec. 2679

**VI. CAUSE OF ACTION**

Brief description of cause:

Plaintiff claims mail was misdelivered.

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23**DEMANDS**

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE:

04/05/2005

SIGNATURE OF ATTORNEY OF RECORD

*Barbara Healy Smith*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT \_\_\_\_\_

APPLYING IFFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Ferdman v. U.S. Post Office

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 366, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 180, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

\*Also complete AO 120 or AO 121  
for patent, trademark or copyright cases**05 - 10670 EFH**3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.  
None

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Barbara Healy Smith  
ADDRESS One Courthouse Dr. B. #1700 Boston MA 02210  
TELEPHONE NO. (617) 748-3100